REMARKS

The present amendment is in response to the Office Action dated May 31, 2005 and the Advisory Action dated August 3, 2005. Claims 1-32 are now present in this case. Claims 8 and 9 are amended.

The Office raises an objection to the drawings under 37 C.F.R. § 1.83(a). Figure 3 has been amended to show the required components. The "congestion detector" (see claim 12) and "normal operation detector" (see claim 14) are both present in the application as originally filed. Thus, showing these components in the drawings does not introduce new matter.

The term "monitor module" should not be considered new matter. The specification as originally filed is clear in that an apparatus is "implemented to carry out a detection and monitoring function, as to failures and excessive congestion." (See page 13, line 1-2.) Furthermore, a similar function is discussed with respect to a router/switch, which "include a monitor/detection function which operates to monitor working VPN path 40 to determine if data congestion or failure occurs in working VPN path 40." (See page 9, lines 11-14.) The same network detection/monitoring function is described with respect to the HQ apparatus of Figure 3 on page 13, lines 1-11. Thus, the revisions to Figure 3 do not introduce new matter.

The Office Action raises an objection to the specification as failing to provide the proper antecedent basis for the monitor module recited in claims 24-32. As discussed above with respect to the drawing change, the specification as originally filed clearly describes a monitor/detection function within a router, a switch, or an HQ apparatus. Those skilled in the art will appreciate that such functionality is typically implemented by software instructions executed by hardware devices (*e.g.*, a processor) within those devices. Thus, clear support for a monitor module is provided in the specification as originally filed. Accordingly, the applicants respectfully request withdrawal of the objection to the specification.

Claims 24-32 stand rejected under 35 U.S.C. § 112, first paragraph. The applicants respectfully traverse this rejection and request reconsideration. Each of the elements recited within claims 24-32 are fully supported by the specification as originally filed. With respect to claims 24 and 29, the monitor module functionality is clearly

described at page 9, lines 12-16, for implementation as a part of the router. The same monitor/detection functionality is discussed with respect to a switch at page 11, lines 6-10. The same functionality is discussed with respect to the HQ apparatus at page 13, lines 1-11. As noted in the specification, the monitor is configured to cause a switch in traffic from the working virtual private network to the protection virtual private network in response to congestion in the working virtual private network path that exceeds predetermined threshold or a link failure in the working virtual private network path. Operation of the monitor to cause switching in the event congestion exceeds a predetermined threshold is recited in original claims 1 and 12 as well the discussion on page 6, lines 4-7. Operation of the monitor to switch traffic from the working path to the protection path in the event of a link failure is also discussed in the specification at page 9, lines 11-16, page 11, lines 13-17, and page 13, line 13 to page 18, line 9. In those sections, the monitor module functionality is clearly described as monitoring the working virtual private network path to monitor traffic flow thereon and to switch from the working virtual private network path to the protection virtual private network path in the event of congestion or link failure. Thus, claims 24 and 29 are clearly supported by the specification.

Claims 25, 26, and 30 describe operation to continue monitoring the working virtual private network path and to return traffic flow thereto if congestion is reduced or the link failure is restored. These functions also find support in the specification at, by way of example, page 9, lines 16-19.

Claims 27 and 31 describe monitor module functionality integrated into a router/switch, as illustrated in Figures 1-2 as originally filed. The implementation of the monitor module functionality in the router is discussed in the specification at page 9, lines 11-12 and illustrated in Figure 1. Implementation of the monitor module functionality within the switch is described in the specification at page 11, lines 9-10 and illustrated in Figure 2.

Claims 28 and 32 describe implementation of the monitor module functionality independent of routers/switches. Implementation of the monitor module functionality within the HQ apparatus "may be operated independently of the router or switch operating at either end of a given working path and its associated protection

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path, or it may be incorporated into the router/switch with which it is associated." (See specification, page 13, lines 1-6.)

Thus, all elements of claims 24-32 find full support in the specification as originally filed. Accordingly, the applicants respectfully request that the rejection of claims 24-32 under 35 U.S.C. § 112, first paragraph, be withdrawn.
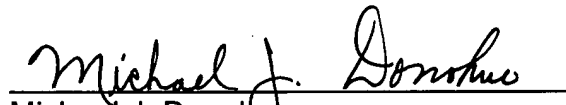
The applicants wish to express their appreciation to the Examiner for his indication that claims 3-10 and 13-21 contain allowable subject matter. However, as will be discussed in detail below, it is believed that all claims are allowable in their current form.

Claims 1, 2, 11-13, 22-24, 27, 29, 31, and 32 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Publication No. 2003/0063561 A1 by Klink. The applicants respectfully request withdrawal of Klink as a reference. A U.S. Patent Application filed under the PCT has the effect of a National application "only if the International application designating the United States was published under Article 21(2)(a) of such treaty in the English language. (35 U.S.C. § 102(e)(1).) The Klink reference has a PCT filing date of January 12, 2001, but was filed in German and the International Patent Publication corresponding thereto was published in German on August 23, 2001. For the Examiner's reference, a copy of the first page of the International Patent Application is enclosed herewith. The PCT Publication was converted into the National stage on August 14, 2002. For the Examiner's reference, a copy of the filing date, determined from the Patent Application Information Retrieval (PAIR) is enclosed herewith. Therefore, the earliest date for which Klink serves as a prior art reference is August 14, 2002. The filing date of the present application is February 6, 2001. The filing date of the present application predates the priority date of Klink. Klink should not be considered a prior art reference against the present invention. Accordingly, the applicants respectfully request withdrawal of Klink as a reference. All claims are now believed in condition for allowance.

In view of the above amendments and remarks, reconsideration of the subject application and its allowance are kindly requested. If questions remain regarding the present application, the Examiner is invited to contact the undersigned at (206) 628-7640.

Respectfully submitted,

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Enclosures:
  First page of International Patent
   Application (WO 01/62037 A1)
  Copy of Patent Application Information
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(54) Title: EQUIVALENT SWITCHING METHOD FOR TRANSMISSION DEVICES IN MPLS NETWORKS

(54) Bezeichnung: VERFAHREN ZUM ERSATZSCHALTEN VON ÜBERTRAGUNGSEINRICHTUNGEN IN MPLS-NETZEN
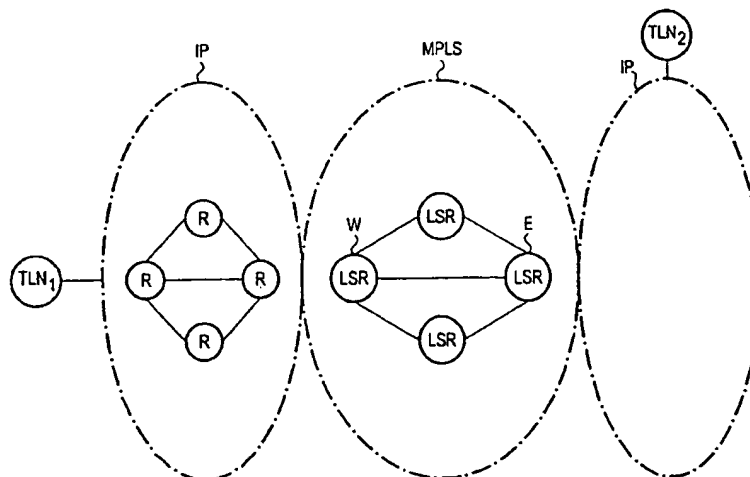
(57) Abstract: In prior art, equivalent switching of MPLS packets can result in maloperations. The inventive method provides a solution to the problem in the following manner: when a working entity fails, equivalent switching is controlled in accordance with priority criteria and logical link information for one single protection entity.

(57) Zusammenfassung: Die Ersatzschaltung von MPLS-Pakete birgt beim Stand der Technik das Problem von Fehlschaltungen in sich. Das erfindungsgemäße Verfahren schafft hier Abhilfe, indem bei Störung einer Betriebsstrecke nach Maßgabe von Prioritätskriterien und logischer Verbindungsinformation eine Ersatzschaltung auf lediglich eine Ersatzstrecke gesteuert wird.